HONORING NATIONAL ADVANCED PLACEMENT SCHOLARS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 1999

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize one of Colorado's top high school students, Mr. Aaron Kohl upon receiving a National Advanced Placement Scholar from the College Board. The academic achievement of Aaron places this student among the best young scholars in the nation.

Aaron was one of only 1,451 students to earn the distinction of being named a National AP Scholar out of 635,000 students who took Advanced Placement (AP) exams in 1998. To qualify for this high honor, each scholar had to achieve grades of 4 or above (the top grade is 5) on at least eight AP exams and have accumulated the equivalent of the first two years of college prior to high school graduation. By choosing this most challenging curriculum, Aaron can expect to attend any one of this nation's most demanding universities.

The College Board established the AP program in 1955 to challenge high school students with rigorous college-level academic courses. The program is recognized nationally for its high academic standards and assessments. In 1998, more than one million AP exams were administered in 32 different subject areas. Of the nation's 21,000 high schools, almost 12,000 currently offer at least one AP course.

Mr. Speaker, I invite my colleagues to join me in congratulating Aaron Kohl. I hold this student up to the House, and to all Americans, as an example of the best of America's students.

HONORING MAJOR GENERAL JAMES MCINTOSH

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 1999

Mr. SAXTON. Mr. Speaker, I rise to pay tribute to Major General James McIntosh, a highly distinguished leader of the New Jersey Air National Guard who is retiring after many years of dedicated service to our great Nation. Major General McIntosh was assigned to the 108th Air Refueling Wing and the 204th Weather Flight, both stationed at McGuire Air Force Base, and the 177th Fighter Wing, which is based at Atlantic City International Airport. He has served our Nation's military with great pride and is exemplary as a leader.

Major General McIntosh entered the Air Force in 1959 through the Aviation Cadet Program at Harlington Air Force Base, TX, and was commissioned as an aircraft navigator in 1960. He is a Master Navigator with over 6,400 flying hours including 100 combat missions during the Vietnam War. General McIntosh entered the New Jersey Air National Guard in 1978, commanded the 170th Air Refueling Group from 1989 to 1992, and has commanded the New Jersey Air National Guard since 1992.

As our Nation proceeds with its involvements around the globe, the National Guard will continue to be an integral part of the total military force structure. Highly qualified citizens participating in the National Guard are the backbone of our national strength. Leaders such as Major General McIntosh command and guide many through the necessary training efforts that sustain a world-class organization.

It has been my privilege to know Major General James McIntosh and witness his dedication to the National Guard. He is a true leader and asset to the armed forces. Major General McIntosh serves as a model upon which future leaders should be based.

INTRODUCTION OF REAL ESTATE INVESTMENT TRUST MODERNIZATION ACT OF 1999

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 1999

Mr. THOMAS of California. Mr. Speaker, today I am pleased to introduce on behalf of myself, Mr. CARDIN of Maryland, and other Representatives the ''Real Estate Investment Trust Modernization Act of 1999''. This legislation modernizes outdated real estate investment trust (REIT) rules that prevent REITs from offering the same types of services as their competitors. I am proud to note that there are more REITs based in California than any other State, and REITs have invested more than $24 billion in California communities.

In 1960, Congress created REITs to enable small investors to invest in real estate. Prior to the creation of REITs, real estate ownership was largely restricted to wealthy individuals who invested through partnerships and other means generally unavailable to the broader public.

Although a variety of factors limited the growth of REITs through the mid-1980's, they played a leading role in reviving weak real estate markets in the wake of the economic turmoil of the late 1980's and early 1990's because of their access to public capital markets and because REITs offer liquidity, security, and performance which alternative forms of real estate ownership often do not. Yet, in more recent years, REITs increasingly have been unable to compete with private held partnerships and other more exclusive forms of ownership. Antiquated REIT rules prevent REITs from offering the same types of customer services as their competitors, even though such services are becoming more central to marketing efforts.

Current law restrictions require REITs to adhere to unworkable distinctions that defy logic and impede competitiveness. Under current law, REITs only may provide ''customary services'' to their tenants, that is, services that are common in the industry and have been traditionally provided by real estate companies, such as furnishing water, heat, light and air conditioning.

The ''customary services'' standard ensures that REITs may provide services only after industry leaders have already done so, thus locking in a competitive disadvantage. In addition, the vagueness of the standard produces seemingly irrational distinctions. For example, REITs can have parking lots for shopping centers or offices they own, but cannot offer valet parking. REITs can own apartments, but cannot provide lifeguards or amenity services. REIT competitors can—and do—provide all these services without any restrictions.

The Administration's fiscal year 2000 budget acknowledges this problem, and proposes modernizing REIT rules to permit them to compete. As the Department of Treasury stated in its explanation of the Administration's revenue proposals, ''The determination of what are permissible services for a REIT consumes substantial time and resources for both REITs and the Internal Revenue Service. In addition, the prohibition of a REIT performing, either directly or indirectly, non-customary services can put REITs at a competitive disadvantage in relation to others in the same market.''

The Administration addresses this problem by creating a new category of companies which it refers to as ''taxable REIT subsidiaries''. Those entities would be exempt from current law restrictions that prohibit REITs from owning either (a) securities of a single non-REIT entity that are worth more than 5 percent of the REIT's assets or (b) more than 10 percent of the voting securities of a non-REIT corporation.

The Administration's proposal would create two types of taxable REIT subsidiaries: a ''qualified business subsidiary'' that could engage in the same activities now performed by ''third party subsidiaries''; and a ''qualified independent contractor'' subsidiary that would be allowed to perform non-customary activities for REIT tenants, as well as those services which also could be performed by qualified business subsidiaries. The Administration's proposal would limit the value of all taxable REIT subsidiaries to 15 percent of the total value of the REIT'S assets, but would restrict subsidiaries providing leading edge type services to REIT tenants to 5 percent of the REIT asset base. The Administration proposal also would amend the current 10 percent test so that it would apply to 10 percent of holdings as measured by the vote or value of a company's securities.

Although the Administration's proposal is a welcome first step, its narrow focus still would leave substantial impediments to competition in place. Today, we are introducing legislation that builds upon the Administration proposal to make REITs more competitive.

Our legislation would allow REITs to create taxable subsidiaries that would be allowed to perform non-customary services to REIT tenants without disqualifying the rents a REIT collects from tenants, that is, performance of those services would no longer trigger a technical violation of the REIT rules.

Toward that end, the 5 percent and 10 percent asset tests would be amended to exclude the securities that a REIT owns in a taxable REIT subsidiary. Also, like the Administration proposal, the 10 percent test would be tightened to apply to both the vote and value of a company's securities. In addition, a REIT owning stock of taxable REIT subsidiaries would have to continue to meet the current law requirement that at least 75 percent of a REIT's

assets must consist of real property, mortgages, government securities, and cash items; the subsidiaries' stock would not count toward that total. However, dividends or interest from a taxable REIT subsidiary would count toward the requirement that a REIT must realize at least 95 percent of its gross income from those sources plus all types of dividends and interest.

Under our proposal, the income a REIT subsidiary would receive from REIT tenants and others would be fully subject to corporate tax. In addition, the proposal includes strict safeguards to ensure that neither a REIT nor a taxable REIT subsidiary could improperly manipulate pricing or the allocation of expenses to reduce the subsidiary's tax burden. Our bill is supported by the American Resort Development Association, the International Council of Shopping Centers, the National Apartment Association, the National Association of Real Estate Investment Trusts, the American Seniors Housing Association, the Mortgage Bankers Association of America, the National Association of Industrial and Office Properties, the National Association of Realtors, the national Multi Housing Council, and the National Realty committee.

In sum, Mr. Speaker, our legislation will provide REITs the flexibility they need to be competitive. We must not allow the Tax Code to inhibit the ability of REITs to compete and to offer the full range of services demanded by residential and commercial tenants. Mr. CARDIN and I and our cosponsors urge our colleagues to review this legislation and we hope that they give this legislation every possible consideration.

WORKERS MEMORIAL DAY IN YORK, PA: ''MOURN FOR THE DEAD, FIGHT FOR THE LIVING''

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 1999

Mr. GOODLING. Mr. Speaker, today, ceremonies of memory and reflection marking Workers Memorial Day are taking place in cities and towns across the country, including York, PA, which is in my congressional district. The ceremony in York will particularly remember eight individuals from the 19th Congressional District of Pennsylvania who have been killed in tragic accidents while at their respective work sites this past year Joyce E. Born, Michael L. Brashears, Sr., C. William Brinkmann, Bradley M. Dietrick, William E. Keeney, Jr., Bernard L. Rishel, and Dennis J. Stough.

Ceremonies such as the one taking place in York are an important reminder to us all of the importance of workplace safety. Accidents are never planned. Avoiding accidents requires the consistent efforts and vigilance of employers and employees. Government too plays a role in encouraging safe work practices.

For far too long, federal efforts to limit workplace safety have been focused on enforcement for ''enforcement's sake.'' This has lead the Occupational Safety and Health Administration (OSHA) to concentrate their limited resources on issues peripheral to worker safety including, but not limited to: paper work violations, duplicative inspections, and issuing citations as a performance bonus for inspectors.

Congress has made progress over the past several years in redirecting and refocusing OSHA toward a different approach that maximizes their resources while increasing the overall quality of safety in America's workplaces. Instead of focusing on enforcement alone, we have worked to expand consultation, partnership, and outreach programs offered by OSHA.

We can be grateful that workplace fatalities and workplace injury rates have declined and are now at the lowest levels since those records have been maintained. These record lows have even been achieved even though we are in the midst of a tight job market, a time in which injury rates have historically increased.

Still, any workplace death is too many. I want to join with my constituents in remembering those who died, and using this day to encourage employers and employees to renew their efforts to prevent future tragedies from occurring.

INTRODUCTION OF THE PATENT FAIRNESS ACT

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 1999

Mr. McDERMOTT. Mr. Speaker, today I have introduced a proposal that encompasses three principles—fair play, equity and depoliticization.

The United States must do whatever possible to assure patent integrity, so we can continue to receive the desired public benefits from pharmaceutical research. Creating a fair and impartial process where an independent body can determine whether or not to restore lost patent life is a matter of fairness. It also is a matter of ensuring adequate incentives for research and development in the future.

In this case, several drugs were caught in a review process that took significantly longer than Congress anticipated. Thus, the patent life of certain of these ''pipeline'' drugs was reduced by an unintended consequence that had nothing to do with their medical safety.

There are two important questions: What type of process can we put in place to guarantee a fair and reasonable evaluation of the issues? And, what types of assurances should be embedded in this process to make sure it is equitable and removed from politics?

Our bill answers these questions. Our bill establishes a process that is fair, equitable, independent, separated from politics, and fully open to the public, and subject to judicial review. Let me expand on these features.

The bill establishes an independent and public review process within the U.S. Patent and Trademark Office. This would be a new administrative procedure—one that is fair and impartial. The experts at the Patent and Trademark Office are the right experts to hold a hearing about these issues, because these issues involve questions not of medical research, but legal issues involving patent life.

Within the office, a procedure would be established to review claims for patent term restoration to compensate for unanticipated lengthy regulatory review of ten years or more in the FDA's New Drug Approval proceeding.

The process established by this legislation would be akin to a court hearing. Any company that believed its product was unintentionally deprived of patent protection would have the opportunity to present its case. Any other interested party would also be free to make its case. Both sides would be treated equally. Everything would occur in the open. The review board would be bound by objective criteria.

By turning over the issues to an independent panel of experts, the process would be driven by public policy objectives—not politics. This is an important point. Our bill is driven by the principle that it is best to take politics out of the equation, to de-politicize the process, to take Congress out of the job of deciding individual patent issues.

Finally, fairness and equity are assured by another provision. The decision would be subject to judicial review.

Another way to describe the legislation is to outline what it does not involve. There is no preferential treatment for any affected pipeline drug. There are no arbitrary decisions. There are no guarantees. Our bill is about process, not about answering a predetermined outcome.

We are convinced this is the right solution. As a medical doctor and psychiatrist, I have seen the benefits of breakthrough drugs and innovations. They truly can make people's lives better, and there is more to do.

HONORING NATIONAL ADVANCED PLACEMENT SCHOLARS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 1999

Mr. SCHAFFER. Mr. Speaker, I rise today to recognize one of Colorado's top high school students, Ms. Emily Brooks upon receiving a National Advanced Placement Scholar from the College Board. The academic achievement of Aaron places this student among the best young scholars in the nation.

Emily was one of only 1,451 students to earn the distinction of being named a National AP Scholar out of 635,000 students who took Advanced Placement (AP) exams in 1998. To qualify for this high honor, each scholar had to achieve grades of 4 or above (the top grade is 5) on at least eight AP exams and have accumulated the equivalent of the first two years of college prior to high school graduation. By choosing this most challenging curriculum, Emily can expect to attend any one of this nation's most demanding universities.

The College Board established the AP program in 1955 to challenge high school students with rigorous college-level academic courses. The program is recognized nationally for its high academic standards and assessments. In 1998, more than one million AP exams were administered in 32 different subject areas. Of the nation's 21,000 high schools, almost 12,000 currently offer at least one AP course.